



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

WMP
Docket No. 1475-02
17 May 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) OPNAVINST 1160.5C
(c) BUPERSINST 1900.8

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, applied to this Board requesting that his narrative reason for separation and reenlistment code be changed.
2. The Board, consisting of Messrs. Geisler, Mackey, and Taylor, reviewed Petitioner's allegations of error and injustice on 15 May 2002 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Petitioner's application to the Board was filed in a timely manner.
 - c. Petitioner enlisted in the Naval Reserve on 15 July 1991 at age 22 in pay grade E-1. On 21 January 1992 he reported for 24 months active duty.
 - d. Petitioner served without incident while on active duty and was released from active duty with an honorable discharge on 30 December 1993. During this two-year period, he received two

performance evaluations that assigned trait marks of between 3.6 and 4.0. The evaluation for the period of 1 February 1993 to 30 December 1993 contained marks of 4.0 with the exception of military bearing, which was marked at 3.8.

e. Petitioner was transferred from the USS NEW ORLEANS (LPH-11) to TPU San Diego for separation processing and release from active duty prior to the completion of his obligation due to the deployed status of his unit. Petitioner was released from active duty on 30 December 1993 due to non-retention on active duty, and assigned an RE-4 reenlistment code.

f. Reference (b) requires the issuance of an RE-4 reenlistment code to individuals who have completed their enlistment and are serving in paygrades E-1 or E-2 at the time of their release from active duty. However, reference (c) allows for the issuance of an RE-3M, RE-4, or RE-6 in the cases of personnel who are separated for "non-retention on active duty" as the result of reference (b). The RE-6 reenlistment code may be assigned to an individual such as Petitioner who satisfactorily completes a two year period of active duty.

g. Petitioner now contends that he is ineligible for benefits administered by the Department of Veterans Affairs because he does not have two years of active service.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. It appears to the Board that the Petitioner should have been issued the more favorable RE-6 vice the more restrictive RE-4 reenlistment code. In this regard, the Board notes the above average marks on his two performance evaluations, and concludes that Petitioner was clearly recommended for retention and advancement. Without substantial documentation that states that he was not recommended for advancement or reenlistment, the Board believes that assignment of an RE-4 reenlistment code was unjust, given his apparent eligibility for the more favorable RE-6 reenlistment code. However, based on the requirements of references (b) and (c), the narrative reason for separation is valid and should not be changed.

In regards to Petitioner's early release from active duty, it is noted that it is standard Navy policy to return personnel early from deployed units and allow for early separation prior to completing their enlistment. However, in the case of Petitioner, his early release has deprived him of benefits for which he most likely would have been eligible had he not been assigned to a

deployed vessel. Therefore, the Board believes that his date of separation should be changed from 30 December 1993 to 20 January 1994, thus giving him the two years of service necessary to receive benefits. In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 30 December 1993, to RE-6, and that his date of separation be changed from 30 December 1993 to 20 January 1994.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director